

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER PRESTFIELD,

Plaintiff,

v.

GEORGE M. ZAKHARY,

Defendant.

No. 1:20-cv-01551-EPG (PC)

ORDER DENYING MOTION FOR
SETTLEMENT CONFERENCE AND/OR
SUMMARY JUDGMENT WITHOUT
PREJUDICE

(ECF No. 9)

On January 4, 2021, Plaintiff Christopher Prestfield, a state inmate proceeding *pro se* and *in forma pauperis*, filed a motion entitled “Petition Requesting Settlement Conference and/or Summary Judgment.” (ECF No. 9). This case is proceeding on Plaintiff’s complaint against his doctor, Defendant George M. Zakhary, filed on November 2, 2020, (ECF No. 1), which is currently out for service by the U.S. Marshal, (ECF No. 8).

Plaintiff’s motion requests a settlement conference, states that he has complied with the Government Claims Act, and requests reasonable allowances in connection with the coronavirus pandemic.

Regarding the request for a settlement conference, the Court will issue an order regarding a settlement conference after defendants have appeared in this action. However, service has yet to be completed. Thus, any such order is premature. Therefore, the Court will deny this aspect of Plaintiff’s motion without prejudice. Plaintiff may request a settlement conference in the future.

Second, Plaintiff states he has complied with the Government Claims Act. Plaintiff may be responding to footnote 1 of the Court's screening order, which notes that Plaintiff did not allege compliance with the Government Claims Act and did not bring any state-law claims. If Plaintiff wishes to bring additional claims, Plaintiff may, in accordance with Federal Rule of Civil Procedure 15(a), file an amended complaint:

(1) *Amending as a Matter of Course*. A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) *Other Amendments*. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

Fed. R. Civ. P. 15(a).¹ If Plaintiff files an amended complaint, the Court will screen that complaint in due course.

Finally, Plaintiff requests leniency with court-ordered deadlines. The Court will not excuse Plaintiff from following court deadlines in this case. However, per Eastern District of California Local Rule 144, Plaintiff may file motions for extension of time upon a showing of good cause, before the deadline expires. Additionally, the Court will take Plaintiff's limitations in consideration when setting a schedule in this case in order to allow adequate time to all parties.

For the foregoing reasons, the Court HEREBY DENIES Plaintiff's motion (ECF. No. 9) without prejudice.

IT IS SO ORDERED.

Dated: **January 6, 2021**

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE

¹ The Court is not presently granting leave to file an amended complaint. Plaintiff may, however, be able to file an amended complaint as a matter of course pursuant to Rule 15(a)(1) or otherwise pursuant to Rule 15(a)(2).